

EXHIBIT A

Excerpts from deposition of Defendant Rex T. Shupe (Captain)

CAPTAIN REX T. SHUPE
DELVECCHIA vs FRONTIER AIRLINES

December 04, 2019

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1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEVADA

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5 PETER DELVECCHIA, et al.,)
6 Plaintiff,) Civil No.:
7 v.) 2:19-CV-01322-KJD-NJK
8 FRONTIER AIRLINES, INC.,)
9 et al.,)
10 Defendants.)
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12
13

14 VIDEOTAPED DEPOSITION OF CAPTAIN REX SHUPE

15 Taken on December 4, 2109

16 at 8:29 a.m.

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19 ADVANCED REPORTING SOLUTIONS
20 159 West Broadway
21 Broadway Lofts, Suite 100
22 Salt Lake City, Utah 84101
23

24 REPORTED BY: Michelle Mallonee, RPR, CSR
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1	four of you in the cockpit?	08:44:51
2	A. Correct.	08:44:52
3	Q. Was First Officer Mullin involved in these	08:44:52
4	conversations at all?	08:44:55
5	A. Yes.	08:44:56
6	Q. He was?	08:44:56
7	A. Yeah.	08:44:56
8	Q. Okay. And what did he add to the conversation?	08:44:56
9	A. Well, I can't remember if he added or not. But	08:44:59
10	it was through the course of the discussion that we came	08:45:01
11	to our decision to separate the two, the adult and the	08:45:04
12	minor.	08:45:08
13	Q. Okay. So before you left the cockpit, the four	08:45:08
14	of you had decided to separate the adult from the minor?	08:45:11
15	A. Before I left the cockpit? That, I can't	08:45:16
16	remember.	08:45:19
17	Q. Okay.	08:45:19
18	A. Because to be honest with you, I can't remember	08:45:19
19	if I left the cockpit or not to use the bathroom.	08:45:21
20	Q. Okay. All right. But at some point, you recall	08:45:24
21	that the group of you made a decision, jointly, that	08:45:27
22	there should be separation of the two passengers?	08:45:31
23	A. Correct.	08:45:35
24	Q. Okay. And that was based on what information?	08:45:36
25	A. On the information from the Chelsie and Scott.	08:45:40

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1 Q. Well, let me put it this way. If somebody is 08:48:03
2 sound asleep, their actions would be involuntary, 08:48:06
3 correct? 08:48:10

4 A. Correct. Yeah. 08:48:10

5 Q. Okay. So you wouldn't consider that somebody is 08:48:10
6 sexually molesting someone in their sleep? 08:48:14

7 A. Correct. 08:48:19

8 Q. Okay. So if Scott had told you that these two 08:48:19
9 people were asleep, presumably you would have said, well, 08:48:22
10 it's probably not an active action if the person is 08:48:27
11 asleep, right? 08:48:32

12 A. Right. 08:48:33

13 Q. Okay. And -- and if the other person is -- is 08:48:34
14 asleep as well, if two people are asleep, there's 08:48:38
15 probably not a -- a -- a sexual molestation situation 08:48:41
16 going on, right? 08:48:46

17 A. That sounds right. 08:48:47

18 Q. Okay. So it's important that Scott left out the 08:48:49
19 fact that the two people were asleep? 08:48:52

20 A. If that's what was happening, yes. 08:49:00

21 Q. Okay. So now, at this point, you've received 08:49:03
22 information from Chelsie that she didn't agree with the 08:49:07
23 stroking of the face, and you've received information 08:49:13
24 from Scott that there was a hand near the crotch. And 08:49:16
25 based on that information, you and First Officer Mullin, 08:49:24

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1 jointly with the flight attendants, made a decision to 08:49:29
2 separate the child from the adult? 08:49:34
3 A. Correct. 08:49:36
4 Q. Okay. Had you ever made a decision like that 08:49:37
5 before? 08:49:41
6 A. No. And let me add to that, that it wasn't just 08:49:42
7 those two. 08:49:46
8 Q. Okay. 08:49:46
9 A. For us to -- to take action with a passenger, we 08:49:47
10 don't take that lightly. And so I also called back the 08:49:52
11 third flight attendant and the fourth one and talked to 08:49:56
12 them individually on the phone. 08:49:59
13 Q. Okay. 08:50:01
14 A. "What did you see?" 08:50:01
15 Q. Okay. So let me just make sure we get the names 08:50:03
16 here. 08:50:06
17 So that's Amanda Nichol and Anna Bond, correct? 08:50:06
18 A. Correct. 08:50:10
19 Q. Okay. And what -- and -- and did you have them 08:50:11
20 both on the phone at the same time? 08:50:13
21 A. No. 08:50:15
22 Q. No. Okay. 08:50:15
23 So who did you speak with first? 08:50:17
24 A. The third, the C flight attendant. 08:50:20
25 Q. The C flight attendant is Bond? 08:50:22

1 Is there any other guidance that you consulted
2 in the FOM concerning this situation?

3 A. No.

4 Q. Okay. So let's just go through the threat
5 levels.

6 You did not have any information that Peter or
7 A.D. had REDACTED

?

9 A. Correct.

10 Q. You did not have any information that Peter or
11 A.D. had REDACTED

?

13 A. Correct.

14 Q. You did not have any information that Peter or
15 A.D. had REDACTED ?

16 A. Correct.

17 Q. And you did not have any information that Peter
18 or A.D. had REDACTED ?

19 A. Correct.

20 Q. Okay. So nothing that was brought to your
21 attention fit any of the threat levels?

22 A. Well, on Threat Level 2 is -- there is a
23 section -- there is an articulation of REDACTED
24 REDACTED .

25 Q. Okay. So Threat Level 2, which I don't have

1 available to me, and apparently you don't either at the
2 moment, Threat Level 2, you say, has something in it
3 about REDACTED ?

4 A. Correct.

5 Q. All right. Now, can you tell me whether that is
6 REDACTED of another passenger or
7 REDACTED of a crew member?

8 A. No, it doesn't -- I'd have to go read that to
9 see the articulation again.

10 Q. All right. Well, for our purposes today, did
11 you determine that the information provided to you met
12 Threat Level 2?

13 A. Yes -- restate that question one more time.

14 Q. Did you determine when you looked at the FOM and
15 the threat levels that the information that the flight
16 attendants had provided to you met the criteria of a
17 Threat Level 2?

18 A. Yes.

19 Q. Okay. And what is the required action of the
20 captain upon determining that a Threat Level 2 exists?

21 A. There is an articulation in there that has us to
22 REDACTED
23 REDACTED .

24 Q. Okay. So if -- if I understand you correctly,
25 the required action of a captain upon determining that a

1 passenger meets Threat Level 2 is, first, to REDACTED
2 REDACTED ; second, to REDACTED
3 REDACTED ?

4 A. Correct.

5 Q. Okay. And you had determined that a Threat
6 Level 2 existed with respect to Peter Delvecchia?

7 A. Correct.

8 Q. And you had determined this based on a statement
9 by Scott Warren that he had seen Peter Delvecchia's hand
10 near the groin of the child next to him?

11 A. Correct.

12 Q. Okay. Now, you did not REDACTED Peter
13 Delvecchia, did you?

14 A. No. Not -- not REDACTED as far as
15 with -- with REDACTED . What do we have, the -- anything
16 like that. The REDACTED came -- to REDACTED
17 REDACTED .

18 Q. Well, under Threat Level 2 in the FOM, it says
19 to REDACTED , correct?

20 A. Correct.

21 Q. And you have equipment on board the aircraft to
22 REDACTED , correct?

23 A. Correct.

24 Q. But you did not REDACTED Peter Delvecchia with
25 that equipment?